

## **Create an office of state attorneys to handle legal matters for all departments and agencies. (LCS — Bannerman)**

### ***Overview***

- Several departments and agencies contract with private attorneys for legal services. Many departments and agencies also supplement their staff attorneys with additional contract attorneys. Also, each school district must contract with private attorneys to handle suits against the district, and, accordingly, state funds that flow through the funding formula are used for these legal services. Task force members suggested forming an office of state attorneys to handle these matters, thereby eliminating the need for private attorney contracts. The office will be separate from the Attorney General's Office and consist of lawyers that can handle various matters for all state departments and agencies as well as the school districts.

### ***Cost Savings***

- Unknown at this time.

### ***Time Frame***

- Mid term — statutory enactment of the law would be fairly easy but will require an appropriation to set up the agency. Setting up the agency will require implementation time, including hiring time to replace the contracting attorneys. Also, some contracts will need to continue depending on where the legal matter is in the process, e.g., if a case has worked its way up to the court of appeals or supreme court, it does not make sense to replace the lawyers until the case is resolved.

### ***Advantages***

- Private attorney fees can be very high. By using state lawyers, the per-hour legal fee will not be as costly for the state.
- School districts, agencies and departments can use the money saved in their budgets for programs and services.
- There would be less opportunity for "pay-to-play" type activities and conflict-of-interest problems because private contracts for services with the state will not be needed.

### ***Disadvantages***

- While the office may provide budget savings for school districts, agencies and departments, it may not save the state much money because of all the administrative and personnel costs associated with opening a state attorneys office. The amount of money saved will depend particularly on what can be brought from the agencies and departments, including personnel and office equipment.
- Lawyers specialize in certain areas of the law; there are very few "generalists" in the legal profession today. By hiring contract attorneys, each school district, department and agency can choose the law firm that provides expertise in the areas needed. It

will be extremely difficult for a state attorneys office to develop this kind of expertise when so many varied issues must be addressed by state agencies and departments.

- The Attorney General's Office already handles legal matters for agencies that do not have attorneys. This office may replicate some of those services.

### ***Implementation Mechanism***

- Statute and rule changes will be required. A statute creating the agency will need to be enacted.
- Coordination with the departments and agencies will need to be achieved to ensure that all contracting for legal services ceases and that lawyers who can address the various legal services required by the departments and agencies are hired. Hiring will be difficult to coordinate because each agency and department will have to be consulted on hiring matters due to the broad range of issues and expertise needed in the office.

### ***Other Options***

- Require departments and agencies that contract with private attorneys for legal services to develop legal offices within the department or agency to handle these matters. This will allow the department and agency lawyers to develop expertise in an area while eliminating the need for contract attorneys. For example, the Public Education Department can hire attorneys to handle special education due-process claims and other issues that arise frequently for school districts. The department will provide all necessary legal services to school districts, which will save the school districts money for programs and services.
- Set up a division of the Attorney General's Office to handle all department and agency issues. This will eliminate the difficulty in creating a new agency while also ending the need for contract attorneys.
- Provide more oversight of contracts for legal services by requiring the Attorney General's Office to review each contract. This will provide protection from conflict-of-interest issues and pay-to-play problems.